

1 106666-3 : n : 02/05/2009 : Judiciary / mjt

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3 HB171 HOUSE JUDICIARY COMMITTEE SUBSTITUTE WITH AMENDMENTS
4 ENGROSSED

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10 A BILL
11 TO BE ENTITLED
12 AN ACT
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14 Relating to restitution; to amend Sections 15-18-68,
15 15-18-71, and 15-18-144, Code of Alabama 1975, to further
16 provide for the collection of restitution.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 15-18-68, 15-18-71, and
19 15-18-144 of the Code of Alabama 1975, are amended to read as
20 follows:

21 "§15-18-68.

22 "(a) In determining the manner, method, or amount of
23 restitution to be ordered ~~for all convictions not enumerated~~
24 ~~under subsection (b)~~, the court may take into consideration
25 all of the following:

1 "(1) The financial resources of the defendant and
2 the victim and the burden that the manner or method of
3 restitution will impose upon the victim or the defendant~~7~~.

4 "(2) The ability of the defendant to pay restitution
5 on an installment basis or on other conditions to be fixed by
6 the court~~7~~.

7 "(3) The anticipated rehabilitative effect on the
8 defendant regarding the manner of restitution or the method of
9 payment~~7~~.

10 "(4) Any burden or hardship upon the victim as a
11 direct or indirect result of the defendant's criminal acts~~7~~.

12 "(5) The mental, physical~~7~~ and financial well being
13 of the victim.

14 "(b) When a defendant has been convicted of the
15 following offenses after February 1, 2009, the court may
16 consider the factors enumerated in subsection (a) and shall
17 order restitution to be paid as follows:

18 "(1) When a defendant has been convicted of a
19 capital offense under subsection (a) of Section 13A-5-40, the
20 court shall order restitution for an amount not less than
21 fifty thousand dollars (\$50,000) for each conviction under
22 subsection (a) of Section 13A-5-40.

23 "(2) When a defendant has been convicted of rape in
24 the first degree under Section 13A-6-61 and the person has one
25 or more prior convictions under Section 13A-6-61, the court
26 shall order restitution for an amount not less than ten

1 thousand dollars (\$10,000) for each conviction under Section
2 13A-6-61.

3 "(c) Nothing in this section shall limit or impair
4 the right of a person injured by a defendant's criminal
5 activities to sue or recover damages from the defendant in a
6 civil action. Evidence that the defendant has paid, or has
7 been ordered to pay, restitution pursuant to this section may
8 not be introduced in any civil action arising out of the facts
9 or events which were the basis for the restitution. However,
10 the court shall credit any restitution paid by the defendant
11 to a victim against any judgment in favor of the victim in the
12 civil action.

13 "§15-18-71.

14 "When a defendant is sentenced to a term of
15 imprisonment, the order of restitution shall be enforceable
16 during the period of imprisonment when the defendant has
17 ~~income~~ any asset or other income or any portion thereof to
18 ~~which a defendant is or may be entitled.~~ The ~~board of pardons~~
19 ~~and paroles will~~ Board of Pardons and Paroles shall be
20 notified of the amount of restitution by its parole officers
21 and when and if the defendant is paroled, it shall be made a
22 condition of ~~his~~ the parole to continue ~~his~~ the restitution
23 payments to the victim. If during the period of the
24 defendant's parole, he or she fails to make restitution as
25 ordered by the original court, it shall be grounds for
26 revocation of parole.

27 "§15-18-144.

1 "(a) Any provision of any law of this state to the
2 contrary notwithstanding and in addition to any other remedy
3 which is or may be hereafter provided by law for the
4 enforcement or collection of a restitution order, any decree,
5 judgment, or order requiring the payment of restitution may
6 include, upon motion of the victim, district attorney, the
7 Attorney General, or the court, an order requiring that any
8 asset or other income or any portion thereof to which a
9 defendant is or may be entitled be withheld or attached, and
10 such order may also require any person in real or constructive
11 possession, custody, or control thereof to pay over, deliver,
12 convey, transfer, or assign the same to the clerk of the court
13 for disbursement, transfer, or assignment to the victim in
14 accordance with the defendant's restitution obligation. If the
15 prison authority reasonably believes that the defendant's
16 outgoing mail contains any object or any item that has
17 monetary value, the object or item shall be seized and
18 transferred to the court of original jurisdiction. If the
19 court determines that the item or object seized has monetary
20 value, the item or object shall be transferred to the Board of
21 Adjustment for disbursement, transfer, or assignment to the
22 victim for satisfaction of the defendant's outstanding
23 restitution obligations. If the court determines that the item
24 or object seized does not have any monetary value, the court
25 shall return such to the prison to be promptly placed in the
26 U.S. mail.

1 "(b) The Alabama Department of Corrections may
2 promulgate reasonable rules to effectuate the intent of this
3 section."

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.